Special Forces Pension Plan Board

1991

ANNUAL

REPORT

Alberta

GOVERNMENT PENSION BOARDS

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August 1992

The Honourable Dick Johnston
Provincial Treasurer

Dear Mr. Johnston:

I am pleased to submit to you the annual report of the Special Forces Pension Plan Board for the period January 1, 1991 to December 31, 1991. The report outlines the roles and responsibilities of the Special Forces Pension Plan Board under the legislation governing the plan.

Board activities during the period under review, with respect to its appellate and advisory roles, are described in the report.

Yours sincerely,

Bob Ardiel

R. L. Ardiel
Vice Chairman

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INTRODUCTION

The calendar year 1991 is the sixth full year of operation of the Special Forces Pension Plan Board. This Board was established on November 1, 1985 under the Special Forces Pension Plan Act.

The main responsibilities of the Board are:

- to hear appeals of administrative decisions made on pensions by the Minister,
- to extend time limits under section 10 of the Act and under reciprocal agreements, and
- to advise the Minister responsible for public service pensions on matters relating to the Plan.

The Honourable Dick Johnston, Provincial Treasurer, is the Minister responsible for public service pensions. The Plan is administered by Alberta Treasury, Payroll and Pensions Division.

The Board is made up of five members appointed by the Lieutenant Governor in Council representing employees, employers and the Government.

The roles of the Board are split between quasi-judicial and advisory. The advisory role is discussed in the section Advice.

THE BOARD

The Special Forces Pension Plan Board is a representative Board covering members, the employers and the Government. In addition to the Chairman, there are two members each representing the employee and employer groups and one member representing the government.

Members

J. E. Faries

Mr. Jerry Faries, Chairman of the Board, brings considerable background in pension policy and administration. He served over 15 years as Director of the Pension Administration. Mr. Faries was chairman and instructor for the Employee Benefit Administration Certificate program of the University of Alberta for a number of years. Currently he holds several senior positions on other boards and community organizations. His term of office expires on June 30, 1992.

A. F. (Chip) Collins

Mr. Collins, the government representative, is Vice-Chairman of the Board. He served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins brings to the Board extensive financial, administrative, and senior public service experience. His term of office expires on April 1, 1992.

R. L. Ardiel

Mr. Ardiel was appointed to the Board in June 1991. He joined the City of Edmonton in 1989 and is the General Manager of the Finance Department. Prior to this he was Commissioner of Finance & Administration with the City of Medicine Hat from 1978 - 1989. He is a member of several other organizations. His term of office expires April 1, 1995.

M. P. Dungey

Mr. Michael Dungey joined the Calgary Police Service in 1971 and since that time his police work has been in many areas. Currently he is a staff sergeant on a leave of absence as President of the Calgary Police Association. Mr. Dungey has served as President of the Alberta Police Federation since May 1987. His term of office expires on December 31, 1992.

A. J. Habstritt

Mr. Allan Habstritt was appointed to the Board in April 1988. He holds a CMA designation and is a graduate of the Banff School of Advanced Management. Mr. Habstritt joined the City of Calgary in 1968 and has held his current position of City Treasurer/Director of Finance since 1986. He is a member of several other boards and is active in a number of financial planning associations. His term of office expires on December 31, 1992.

G. Hopman

Mr. Gerry Hopman held various posts with the City of Lethbridge since 1958 before assuming his current position as Director of Human Resources. He is a sessional instructor at the University of Lethbridge School of Management and Lethbridge Community College. Mr. Hopman also serves on the AUMA Labour Relations Advisory Committee, and is Chairman of the Human Resources Advisory Committee at the University of Lethbridge School of Management. His term of office expired on April 1, 1991.

N. E. Koch

Mr. Norman Koch served with the Royal Canadian Mounted Police from 1951 to 1955. He then joined the Edmonton City Police, and served till his retirement in 1983. Mr. Koch has been involved in police union activities, serving as President of the Edmonton Police Association and President of the Alberta Federation of Police Association. He is currently business manager of the Edmonton Police Association. His term of office expires on April 1, 1995.

SUMMARY OF APPEALS

Provisions

The Act provides that decisions of the Minister, which adversely affect plan members' rights under the pension plan in any of the following areas, can be appealed:

Participation	Contributions
Pensionable Service	Prior Service
Benefits	

Provisions of the Act dealing with applications and appeals, Sections 10 and 35 respectively, are reproduced for ease of reference in Appendix A.

Parties aggrieved by a decision of the Board may appeal to the Court of Queen's Bench under Section 36 of the Act. Appeals to the Court of Queen's Bench may be made only on a question of law or jurisdiction. Such appeals must be made within 30 days.

Applications may also be made to the Board for extension of time limits under the reciprocal agreement with the Local Authorities Pension Plan. The following time limits apply under the agreement; that the break in contributory service must be no more than three months, and that application for transfer must be made within one year of commencing contributions with the new employer. The Board considers extenuating circumstances put forth by the applicant in making its decision.

Procedure

A Notice of Appeal form, prescribed by the Minister, is normally provided with adverse administrative decisions. This form must be completed and submitted in filing an appeal. It may also be used for applications for time limit extensions.

Assistance to appellants is available from the Chairman's office. The individual may seek advice on what facts should be gathered and how they should be presented. A copy of the "Pension Appeal Process" brochure is available from the Chairman's office.

Though hearings are conducted in an informal manner, the Board adheres to the principles of natural justice and the duty to be fair.

To ensure that appellants and applicants have an opportunity to present their cases, the Chairman is authorized to reimburse them for reasonable travel and subsistence expenses incurred in attending hearings.

Summary of Appeals and Applications (1991) - SFPP Board

During 1991 the SFPP Board did not decide on any appeals and applications, compared to 3 dealt with in the previous year. The Board granted or varied 33% of the cases in 1990.

In 1990, 67% of the appellants and applicants or their representatives attended their hearings before the Board.

Summary of Appeals and Applications for 1991, by categories, with comparative figures for 1990 - SFPP Board

	1991			1990		
Category	#	% of Total	% Granted or Varied	#	% of Total	% Granted or Varied
Reciprocal Transfer	0	-	-	0	-	-
Time Limit Extensions (Section 10)	0	-	-	1	33%	100%
Appeals (Section 35)	0	-	-	2	67%	0%
TOTAL	0	-	-	3	100%	33%

One appeal was filed but did not require a hearing by the Board - P & P granted the appeal prior to the hearing.

Two appeals are on file and are scheduled for 1992.

ADVICE

The Minister indicated early in 1991 that he contemplated introducing legislation to meet new Federal Income Tax Act requirements and making a number of "financing, benefit and administrative changes" to the Special Forces Pension Plan. The Minister brought forward a package of proposals on July 9th, 1991. The Minister requested that the Board respond by the end of September and encouraged plan stakeholders to use the SFPP Board as an avenue to present their views. As a result, the focus of the Board's advisory role in 1991 was to advise the Minister of plan member concerns.

Compliance with the Federal Income Tax Act was important to ensure that required employee contributions remained tax deductible. The plan had to be administered on the new basis effective January 1, 1992. With no guarantee of a Fall sitting, the Board agreed to interim legislation that would allow the plan to be changed through regulation. This legislation had a one year sunset clause and the Board was assured that it would have the opportunity to review the regulations in draft form prior to their submission to Cabinet.

The new Federal Income Tax rules affected the SFPP in a number of ways. The Board responded to draft regulations presented to it in mid November and continued to monitor the implementation of administrative changes. The Board recognized the necessity for many of the changes but was very sensitive to the issue of adequate notice to plan participants. In addition, some changes such as the application of the maximum salary cap were open to interpretation as to whether they were required to meet the Federal rules. With the expectation of final legislation in the Spring session, these and other issues will continue to be of concern to the Board in 1992.

The bulk of the Minister's July 9th proposals represented a broader pension reform initiative. The Minister is to be commended for attempting to address a number of long standing concerns regarding funding and portability. Included in the proposals was a plan to fully fund Provincially administered pension plans' past service liability, a requirement that employers and employees fully fund future service, the formal recognition of indexing of pensions at 60% of inflation, improved portability of future service benefits, the removal of prior service purchases and the cancelling of reciprocal agreements.

The Board's response to the Minister was presented on September 30, 1991 and copies are available upon request. The Board's report reviewed the Minister's proposal not only on its own merits but also with the context of the plan's history. The SFPP was the product of negotiations between employees and employers and then subsequently with the government to develop a defined benefit plan. This plan was to be funded on a cash flow basis, with the benefit secured through the sponsorship and guarantee of the province.

The Minister's proposal represented a dramatic departure from that original pension deal. The proposal called for full funding of both past and future service. Employees and employers would be required to fund future service as it accrued. The Minister also proposed the employees and employers share with the government in liquidating the unfunded liability, effectively capping the government's liability to the plan and significantly shifting the financial risk to the employees and employers. As a result, the plan would be changed from government sponsorship to a shared risk-reward arrangement.

It was the view of the Board that the past service unfunded liability was the result of the government's agreement to partially fund the plan. The funding of accrued obligations, however defined, remains the obligation of the government. This could lead to a clear distinction between the past and the future. Therefore, at some point it may be appropriate to enter into a process of negotiation to integrate the funding of the two periods of service.

The Board acknowledged that some form of shared risk-reward arrangement may be necessary if a defined benefit plan meeting the needs of the current SFPP participants is to survive. Employees and employers have recognized the need to secure the funding of the plan and have indicated that they are willing to meet the on-going current service cost in the future. However, the imposition of such an arrangement without first addressing the issue of governance would be inappropriate. Therefore, for such an arrangement to have legitimacy, employees and employers must have a degree of participation commensurate with the risk they would now bear.

The specific recommendations of the Board can be summarized as follows:

1. The unfunded liability of the plan remains an obligation of the government and it is up to the government to fund it from the General Revenue Fund of the province. Any surcharge or "payroll tax" on the employees participating in the plan or their employers is rejected.

2. A negotiation process similar to what was used to develop the SFPP be established with the mandate to renew the "pension deal". The process would adhere to the principle of full funding for current and future service.

3. A formal joint board of trustees be established to provide governance on benefits accrued for service rendered after 1992.

4. Until such time that negotiations are complete and a Board of Trustees is in place, existing benefits and explicit/implicit promises made to the plan beneficiaries must not be changed except those amendments required to comply with Federal tax reform.

The Board presented its report as a first step in developing the dialogue necessary to come to a solution that would be satisfactory to all parties to the "pension deal". Subsequently, the Board met twice with the Minister. Unfortunately, those discussions did not lead to an immediate solution. The Board continues to be of the view that it would be more appropriate that dialogue take place directly with representatives of employees and employers and not through the Board. It is anticipated those direct discussions will occur in early 1992.

APPENDIX A

Excerpts from the Act

The following excerpts of the Special Forces Pension Plan Act define the make-up and responsibilities of the Special Forces Pension Plan Board.

Establishment, composition, term of office, etc.

5(1) There is hereby established a board known as the Special Forces Pension Plan Board.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among participants and another from among persons nominated by the employers.

(4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

(6) The Board may make rules respecting the calling of and the conduct of business at its meetings.

Chairman and Vice-chairman

6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.

(2) The vice-chairman shall act as chairman when the office of chairman is vacant or when the chairman is absent or unable to act.

Support services

7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.

Objects of the Board

8 The objects of the Board are

(a) to conduct the hearing of appeals under Part 6;

(b) to provide advice to the Minister under section 9;

(c) *where appropriate, to extend time limits and treat benefit choices as revoked under section 10;*

(d) *to exercise and perform any other powers and duties assigned to it by this Act and the regulations;*

(e) *to perform any other duties relating to the Plan that are assigned to it by the Minister.*

Advisory functions of the Board

9 *The Board may advise the Minister respecting any matters relating to the Plan, including*

(a) *the adequacy of contributions to meet benefits,*

(b) *adjustments to pensions under section 27,*

(c) *rates of interest for the purposes of the Plan,*

(d) *benefits,*

(e) *reciprocal agreements,*

(f) *recognition of prior service,*

(g) *eligibility and participation in the Plan, and*

(h) *the actuarial tables prescribed or to be prescribed by the Minister.*

Board's power to extend time limits, etc.

10(1) *Where*

(a) *a person fails to meet a time limit under the Plan,*

(b) *the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and*

(c) *the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,*

the Board may, on application to it, extend the time limit.

(2) Where

(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,

(b) the benefit has been received or has commenced to be paid, and

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and

(b) the Board is satisfied that

(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and

(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked, substitute for it the choice that, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

Appeal to the Board

35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(2) *A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.*

(3) *The notice of appeal must specify the decision appealed against and the grounds of appeal.*

(4) *The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.*

(5) *For the purposes of conducting an appeal under this section, the Board*

(a) *has all of the duties, powers, privileges and immunities given to a commissioner appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and*

(b) *shall be deemed to be a person for the purposes of section 1(a) of the Administrative Procedures Act.*

(6) *The Board may confirm, vacate or vary the decision appealed against.*

(7) *The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.*

Appeal to the Court of Queen's Bench

36(1) *A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.*

(2) *The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.*

(3) *The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.*

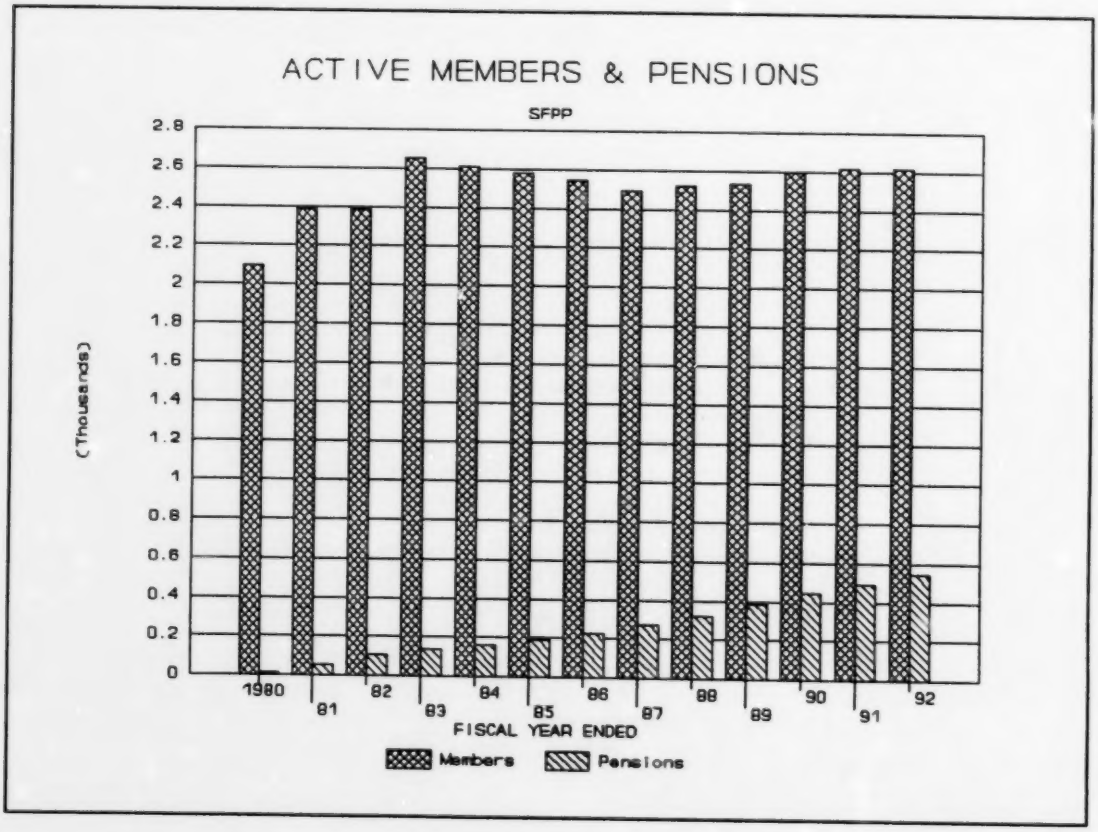
APPENDIX B

Summary of Plan Statistics

Statistics are provided by Payroll and Pensions Division of Alberta Treasury and interpreted by the Alberta Government Pension Boards office.

A. Active Members

Active membership in the Special Forces Pension Plan increased from 2,099 at March 31, 1980 to 2,616 as at March 31, 1992. The following graph shows the relative changes from 1980 through 1992:



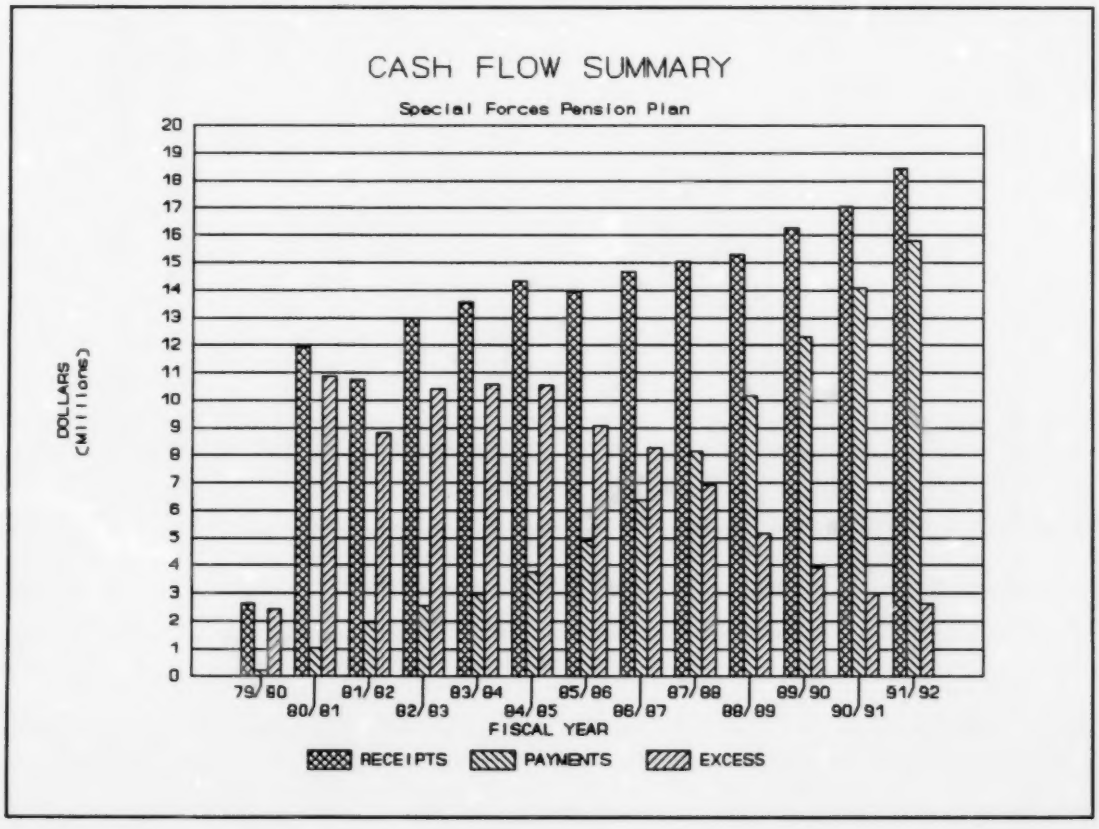
B. Pensions in Payment

The number of pensions in payment increased from 15 at March 31, 1980 to 545 as at March 31, 1992. The graph on the previous page illustrates the relative increases.

The average pension in payment was $1,240 per month on March 31, 1981 and increased to $2,425 per month for pensioners and $1,568 per month for surviving spouses on March 31, 1992.

C. Cash Flow Summary

The graph below reveals that receipts were $11,922,205 in fiscal year 1980/81 and increased to $18,470,000 in fiscal year 1991/92. Payments increased from $1,036,656 in fiscal year 1980/81 to $15,825,000 in fiscal year 1991/92.

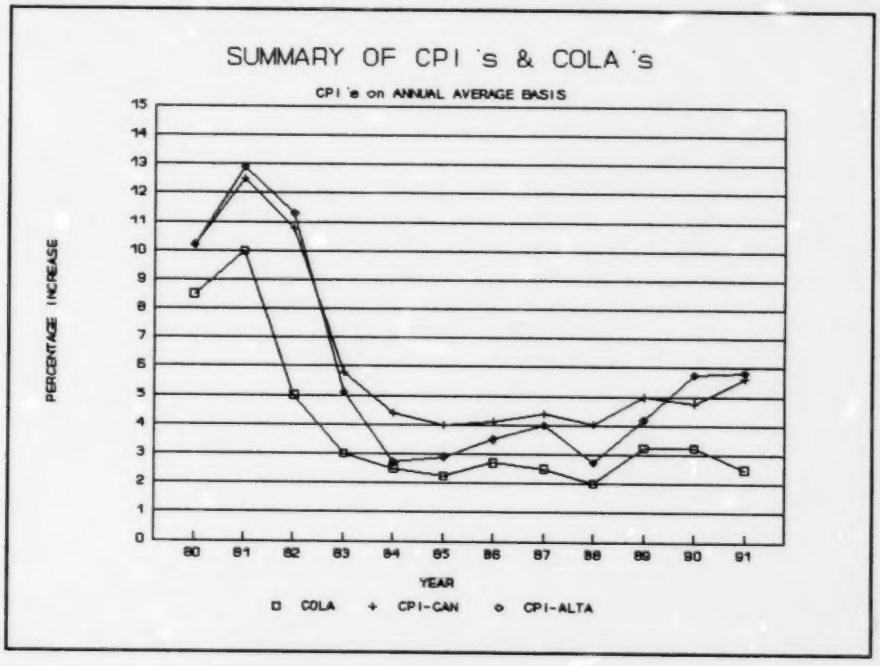


APPENDIX C

Board Recommendations

1. **COLA:**

Cost of living adjustments to the plan are granted annually (since 1962) by the Minister. The actuarial valuations contemplate a COLA on the basis of 75% of the Consumer Price Index (CPI). The actual COLA that has been granted has fallen short of that target level through out most of the last 12 years.



The graph above shows the COLA's granted on January 1 following the years 1980 through 1991, i.e. the COLA of 3.25% shown for 1990 was granted on January 1, 1991. The Consumer Price Index (CPI) increases are for the calendar years, i.e. CPI-CAN shown for 1990 is the 4.8% increase in the 1990 average CPI over the 1989 average CPI. During the 12-year period the average annual increases were as follows: Canada CPI - 6.3%, Alberta CPI - 5.9%, COLA's granted - 3.9%. Similarly, during the 5-year period 1987 through 1991 the average annual increases were as follows: Canada CPI - 4.7%, Alberta CPI - 4.5%, COLA's granted - 2.7%.